

REMARKS

The present Amendment is in response to the Examiner's Final Office Action mailed January 26, 2006. By this paper, claims 1 and 5-8 are amended, claims 3 and 4 are canceled, and new claims 23-30 are added. Claims 9-22 were withdrawn in a previous paper. Claims 1-2, 5-8 and 23-30 are now pending in view of the aforementioned cancellations, new claims, and withdrawals.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments to the claims and the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and any references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Claim Rejections

a. Rejection Under 35 U.S.C. §102(b)

The Examiner has rejected claims 1-4 and 7-8 under 35 U.S.C. § 102(a) as being anticipated by *Pelekhaty* (United States Patent No. 6,215,592). Applicant respectfully disagrees. However, in light of the discussion below, Applicant submits that the rejection has been overcome and should be withdrawn.

Applicant notes at the outset that claims 3 and 4 have been canceled herein and the rejection of those claims has thus been rendered moot and should be withdrawn.

By this paper, Applicant has amended claim 1 to recite in part "...the thin film portion comprising at least a first cavity that includes a plurality of thin film layers and a spacer; a matching layer interposed between the optical substrate and the thin film portion, the matching layer being arranged such that the thin film layers of the first cavity are positioned between the matching layer and the spacer of the first cavity..." Support for this amendment can be found in the application at Figure 6 and the corresponding discussion at paragraphs [0034] to [0037]. However, the Examiner has not established that *Pelekhaty*, either alone or in combination with any other reference(s), teaches or suggests the foregoing limitation in combination with the other limitations of claim 1. Applicant thus respectfully submits that the rejection of claim 1, as well as the rejection of corresponding dependent claims 2 and 7-8, should be withdrawn.

b. Rejection Under 35 U.S.C. § 103

The Examiner has rejected claims 5 and 6 under 35 U.S.C. § 103 as being unpatentable over *Pelekhaty* in view of *Tai* (U.S. Patent No. 6,341,040). Applicant respectfully disagrees. However, in light of the discussion below, Applicant submits that the rejection has been overcome and should be withdrawn.

As noted above, Applicant has amended claim 1, from which claims 5 and 6 depend, to recite in part "...the thin film portion comprising at least a first cavity that includes a plurality of thin film layers and a spacer; a matching layer interposed between the optical substrate and the thin film portion, the matching layer being arranged such that the thin film layers of the first cavity are positioned between the matching layer and the spacer of the first cavity..." It was noted above however that the Examiner has not established that *Pelekhaty* teaches or suggests the foregoing limitation in combination with the other limitations of claim 1. Moreover, the Examiner has not established that this defect is cured by *Tai*. Applicant thus respectfully submits that the rejection of claims 5 and 6 should be withdrawn.

III. New Claims 23-30

By this paper, Applicant has added new claims 23-30. Support for new claim 23 can be found at Figure 6. Support for new claim 24 can be found at paragraph [0026]. Finally, support for new claims 25-30 can be found at paragraph [0027]. New claims 23-30 are believed to be in allowable condition for at least the reasons set forth herein.

CONCLUSION

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-2, 5-8 and 23-30 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 5TH day of July, 2006.

Respectfully submitted,



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